

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	4:10CR3095
	)	
v.	)	
	)	
CARLOS PONCE,	)	MEMORANDUM AND ORDER
	)	
Defendant.	)	

The defendant has filed an oral motion to cancel his change of plea hearing and to set this case for trial as soon as the court's schedule allows. Filing No. 36.

Accordingly,

IT IS ORDERED:

- 1) The defendant's change of plea hearing, previously set for March 3, 2011 at 3:00 p.m., is cancelled. If the defendant changes his mind and later wishes to enter a guilty plea, the court will not cancel the trial setting and set the plea hearing without first receiving a fully executed Petition to Enter a Plea of Guilty.
- 2) Trial is set to begin at 9:00 a.m. on April 18, 2011, for a duration of three trial days before District Judge Kopf in Courtroom #1, United States Courthouse and Federal Building, 100 Centennial Mall North, Lincoln, Nebraska. Jury selection will be at the commencement of trial
- 3) The court canceled the defendant's trial setting, and scheduled other cases for trial, based on defendant's prior statement that he wished to enter a plea. The defendant's change of mind has disrupted the normal scheduling practices of this court, the parties' ability to anticipate the need to prepare for trial, and their trial preparations. Therefore, under the circumstances presented, the additional time arising as a result of the granting the motion to set a trial date, the time between March 3, 2011 and April 18, 2011, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, for the reason that the parties require additional time to adequately prepare the case, taking into consideration due diligence of counsel, the novelty and complexity of the case, and the fact that the failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

March 3, 2011.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge